

1 Introduced by Committee on Economic Development and Housing and

2 General Affairs

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; housing

6 Statement of purpose of bill as introduced: This bill proposes to promote
7 affordable and sustainable housing through changes relating to tax increment
8 finance districts and State and municipal land use laws concerning affordable
9 and priority housing projects; through education and outreach to municipalities
10 concerning municipal authority on water and sewer connections; and through
11 funding for affordable housing development.

12 An act relating to promoting affordable and sustainable housing

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 * * * Tax Increment Financing Districts * * *

15 Sec. 1. 24 V.S.A. § 1892 is amended to read:

16 § 1892. CREATION OF DISTRICT

17 (a) Upon a finding that such action will serve the public purposes of this
18 subchapter and subject to subsection ~~(d)~~ (e) of this section, the legislative body
19 of any municipality may create within its jurisdiction a special district to be
20 known as a tax increment financing district. The district shall be described by

1 its boundaries and the properties therein and the district boundary shall be
2 shown on a plan entitled "Proposed Tax Increment Financing District
3 (municipal name), Vermont." The legislative body shall hold one or more
4 public hearings, after public notice, on the proposed plan.

5 * * *

6 (d) The following municipalities have been authorized to use education tax
7 increment financing for a tax increment financing district, ~~and the Vermont~~
8 ~~Economic Progress Council is not authorized to approve any additional tax~~
9 ~~increment financing districts even if one of the districts named in this~~
10 ~~subsection is terminated pursuant to subsection 1894(a) of this subchapter:~~

11 (1) the City of Burlington, Downtown;

12 (2) the City of Burlington, Waterfront;

13 (3) the Town of Milton, North and South;

14 (4) the City of Newport;

15 (5) the City of Winooski;

16 (6) the Town of Colchester;

17 (7) the Town of Hartford;

18 (8) the City of St. Albans;

19 (9) the City of Barre; ~~and~~

20 (10) the Town of Milton, Town Core; and

21 (11) the City of South Burlington, New Town Center.

1 (g) Any use of education property tax increment approved under subsection
2 (f) of this section shall be in addition to any other payments to the municipality
3 under 16 V.S.A. chapter 133 and shall remain available to the municipality for
4 the full period authorized under 24 V.S.A. § 1894 and shall be restricted only
5 to the extent that the real property development giving rise to the increased
6 value to the grand list fails to occur within the authorized period or by the
7 enforcement provided by subsection (j) of this section.

8 (h) Criteria for approval. To approve utilization of incremental revenues
9 pursuant to subsection (f) of this section, the Vermont Economic Progress
10 Council shall do all the following:

11 (1) Review each application to determine that the new real property
12 development would not have occurred or would have occurred in a
13 significantly different and less desirable manner but for the proposed
14 utilization of the incremental tax revenues. The review shall take into account:

15 (A) the amount of additional time, if any, needed to complete the
16 proposed development within the tax increment district and the amount of
17 additional cost that might be incurred if the project were to proceed without
18 education property tax increment financing;

19 (B) how the proposed development components and size would differ,
20 if at all, without education property tax increment financing; and

1 (C) the amount of additional revenue expected to be generated as a
2 result of the proposed development; the percentage of that revenue that shall be
3 paid to the education fund; the percentage that shall be paid to the
4 municipality; and the percentage of the revenue paid to the municipality that
5 shall be used to pay financing incurred for development of the tax increment
6 financing district.

7 (2) Process requirements. Determine that each application meets all of
8 the following four requirements:

9 (A) The municipality held public hearings and established a tax
10 increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

11 (B) The municipality has developed a tax increment financing district
12 plan, including: a project description; a development financing plan; a pro
13 forma projection of expected costs; a projection of revenues; a statement and
14 demonstration that the project would not proceed without the allocation of a
15 tax increment; evidence that the municipality is actively seeking or has
16 obtained other sources of funding and investment; and a development schedule
17 that includes a list, a cost estimate, and a schedule for public improvements
18 and projected private development to occur as a result of the improvements.

19 (C) The municipality has approved or pledged the utilization of
20 incremental municipal tax revenues for purposes of the district in the same
21 proportion as the utilization of education property tax revenues approved by

1 the Vermont Economic Progress Council for the tax increment financing
2 district.

3 (D) The proposed infrastructure improvements and the projected
4 development or redevelopment are compatible with approved municipal and
5 regional development plans, and the project has clear local and regional
6 significance for employment, housing, and transportation improvements.

7 (3) Location criteria. Determine that each application meets one of the
8 following criteria:

9 (A) The development or redevelopment is compact, high density, and
10 located in or near existing industrial areas.

11 (B) The proposed district is within an approved growth center,
12 designated downtown, designated village center, or new town center.

13 (C) The development will occur in an area that is economically
14 distressed, which for the purposes of this subdivision means that the area has
15 experienced patterns of increasing unemployment, a drop in average wages, or
16 a decline in real property values.

17 (D) Repealed.]

18 (4) Project criteria. Determine that the proposed infrastructure
19 improvements and development within a tax increment financing district will
20 accomplish at least three of the following five criteria:

1 Sec. 4. AGENCY OF NATURAL RESOURCES; EDUCATION AND
2 OUTREACH; DELEGATION; SEWERAGE AND WATER
3 SERVICE CONNECTIONS

4 (a) The Secretary of Natural Resources, after consultation with the
5 Vermont League of Cities and Towns, shall conduct outreach and education
6 for municipalities regarding the ability of a municipality under 10 V.S.A.
7 § 1976 to be delegated the authority to permit the connection of a municipal
8 sewer or water service line to subdivided land, a building, or a campground.

9 (b) The education and outreach shall specify the conditions or requirements
10 for delegation, how a municipality can seek delegation, and contact
11 information or other resource to provide additional information regarding
12 delegation. The education and outreach may include educational materials,
13 workshops, or classes regarding the ability of a municipality to be delegated
14 under 10 V.S.A. § 1976 the permitting of sewer and water service connection
15 permitting.

16 (c) On or before January 15, 2018, the Secretary of Natural Resources shall
17 submit a report to the Senate Committees on Natural Resources and Energy
18 and Economic Development, Housing and General Affairs and the House
19 Committees on Natural Resources, Fish and Wildlife and Commerce
20 summarizing the education and outreach conducted or planned by the
21 Secretary under the requirements of this section and whether any municipality

1 has sought delegation of sewer and water service connection permitting under
2 10 V.S.A. § 1976 since the effective date of this act.

3 * * * Housing Revenue Bond; Property Transfer Tax; Housing Projects * * *

4 Sec. 5. HOUSING FOR ALL

5 (a) Findings and Purpose.

6 (1) The General Assembly finds that investments are needed to help
7 house the most vulnerable as well as creating more homes for workers.

8 (2) The shortage of affordable and available homes has been highlighted
9 recently by:

10 (A) the Vermont Futures Project of the Vermont Chamber of
11 Commerce, which set a growth target of 5,000 new and improved housing
12 units annually;

13 (B) a national consultant's recommendations for a Roadmap to End
14 Homelessness, which calls for 368 new units for permanent supportive housing
15 and 1,251 new homes affordable at 30 percent of median or below over the
16 next five years; and

17 (C) the 2015 statewide housing needs assessment by Bowen National
18 Research, which found the largest gaps in housing affordable to households
19 below 30 percent of median and between 85 percent and 120 percent, and a
20 lack of housing availability across the income spectrum.

1 (3) The purpose of this section is to promote the development and
2 improvement of housing for Vermonters.

3 (b)(1) The Vermont Housing and Conservation Board shall use housing
4 revenue bond proceeds to fund the creation and improvement of ownership and
5 rental housing for Vermonters with very-low to middle-income in areas
6 targeted for growth and reinvestment.

7 (2)(A) Not less than 25 percent of the housing shall be targeted to
8 Vermonters with very low income, meaning households below 50 percent of
9 area median income; and

10 (B) not less than 25 percent shall be targeted to Vermonters with
11 moderate income, meaning households between 80 and 120 percent of median
12 income.

13 Sec. 6. 32 V.S.A. § 9610 is amended to read:

14 § 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF
15 RETURNS

16 (a) Not later than 30 days after the receipt of any property transfer return, a
17 town clerk shall file the return in the office of the town clerk and electronically
18 forward a copy of the acknowledged return to the Commissioner; provided,
19 however, that with respect to a return filed in paper format with the town, the
20 Commissioner shall have the discretion to allow the town to forward a paper
21 copy of that return to the department.

1 (b) The copies of property transfer returns in the custody of the town clerk
2 may be inspected by any member of the public.

3 (c) Prior to distributions of property transfer tax revenues under 10 V.S.A. §
4 312, 24 V.S.A. § 4306(a), and 32 V.S.A. § 435(b)(10), one percent of the
5 revenues received from the property transfer tax shall be deposited in a special
6 fund in the Department of Taxes for Property Valuation and Review
7 administration costs.

8 (d) Prior to any distribution of property transfer tax revenue under 10
9 V.S.A. § 312, 24 V.S.A. § 4306(a), and section 435(b)(10) of this title, \$2.5
10 million of the revenue received from the property transfer tax shall be used for
11 the purpose of repaying a housing revenue bond, the proceeds of which shall
12 be deposited in the Vermont Housing and Conservation Trust Fund.

13 Sec. 7. 10 V.S.A. § 323 is amended to read:

14 § 323. ANNUAL REPORT

15 Prior to January 31 of each year, the ~~board~~ Board shall submit a report
16 concerning its activities to the ~~governor~~ Governor and legislative committees
17 on agriculture, natural resources and energy, appropriations, ways and means,
18 finance, and institutions. The report shall include, ~~but not be limited to,~~ the
19 following:

20 (1) a list and description of activities funded by the board during the
21 preceding year, including commitments made to fund projects through housing

1 bond proceeds and project descriptions, levels of affordability, and geographic
2 location;

3 * * *

4 * * * Municipal Land Use and Development; Affordable Housing * * *

5 Sec. 8. 24 V.S.A. § 4303 is amended to read:

6 § 4303. DEFINITIONS

7 The following definitions shall apply throughout this chapter unless the
8 context otherwise requires:

9 (1) “Affordable housing” means either of the following:

10 (A) Housing that is owned by its inhabitants whose gross annual
11 household income does not exceed ~~80~~ 120 percent of the county median
12 income, or ~~80~~ 120 percent of the standard metropolitan statistical area income
13 if the municipality is located in such an area, as defined by the U.S.

14 Department of Housing and Urban Development, and the total annual cost of
15 the housing, including principal, interest, taxes, insurance, and condominium
16 association fees is not more than 30 percent of the household’s gross annual
17 income.

18 (B) Housing that is rented by its inhabitants whose gross annual
19 household income does not exceed 80 percent of the county median income, or
20 80 percent of the standard metropolitan statistical area income if the
21 municipality is located in such an area, as defined by the U.S. Department of

1 Housing and Urban Development, and the total annual cost of the housing,
2 including rent, utilities, and condominium association fees, is not more than 30
3 percent of the household's gross annual income.

4 * * *

5 * * * Act 250; Priority Housing Projects * * *

6 Sec. 9. 10 V.S.A. § 6001 is amended to read:

7 § 6001. DEFINITIONS

8 In this chapter:

9 * * *

10 (3)(A) "Development" means each of the following:

11 * * *

12 (iv) The construction of housing projects such as cooperatives,
13 condominiums, or dwellings, or construction or maintenance of mobile homes
14 or mobile home parks, with 10 or more units, constructed or maintained on a
15 tract or tracts of land, owned or controlled by a person, within a radius of five
16 miles of any point on any involved land, and within any continuous period of
17 five years. However:

18 (I) A priority housing project shall constitute a development
19 under this subdivision (iv) only if the number of housing units in the project is:

20 (aa) ~~275 or more, in a municipality with a population of~~
21 ~~15,000 or more;~~ [Repealed.]

1 (bb) ~~150 or more, in a municipality with a population of~~
2 ~~10,000 or more but less than 15,000; [Repealed.]~~

3 (cc) 75 or more, in a municipality with a population of 6,000
4 or more but less than 10,000;

5 (dd) 50 or more, in a municipality with a population of
6 3,000 or more but less than 6,000;

7 (ee) 25 or more, in a municipality with a population of less
8 than 3,000; and

9 (ff) notwithstanding subdivisions ~~(aa)~~(cc) through (ee) of
10 this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the
11 demolition of one or more buildings that are listed on or eligible to be listed on
12 the State or National Register of Historic Places. However, demolition shall
13 not be considered to create jurisdiction under this subdivision if the Division
14 for Historic Preservation has determined that the proposed demolition will
15 have no adverse effect, will have no adverse effect if specified conditions are
16 met, or will have an adverse effect that will be adequately mitigated. Any
17 imposed conditions shall be enforceable through a grant condition, deed
18 covenant, or other legally binding document.

19 (II) The determination of jurisdiction over a priority housing
20 project shall count only the housing units included in that discrete project.

1 (III) Housing units in a priority housing project shall not count
2 toward determining jurisdiction over any other project.

3 * * *

4 (D) The word “development” does not include:

5 * * *

6 (viii) The construction of a priority housing project in a
7 municipality with a population of 10,000 or more. However, if the
8 construction of the project involves demolition of one or more buildings that
9 are listed or eligible to be listed on the State or National Register of Historic
10 Places, this exemption shall not apply unless the Division for Historic
11 Preservation has made the determination described in subdivision
12 (3)(A)(iv)(I)(ff) of this section and any imposed conditions are enforceable in
13 the manner set forth in that subdivision.

14 * * *

15 (27) “Mixed income housing” means a housing project in which the
16 following apply:

17 (A) Owner-occupied housing. At the option of the applicant,
18 owner-occupied housing may be characterized by either of the following:

19 (i) at least 15 percent of the housing units have a purchase price
20 which at the time of first sale does not exceed 85 percent of the new

1 construction, targeted area purchase price limits established and published
2 annually by the Vermont Housing Finance Agency; or

3 (ii) at least 20 percent of the housing units have a purchase price
4 which at the time of first sale does not exceed 90 percent of the new
5 construction, targeted area purchase price limits established and published
6 annually by the Vermont Housing Finance Agency;

7 (B) Rental Housing. ~~At least 20 percent of the housing units that are~~
8 ~~rented constitute affordable housing and have a duration of affordability of no~~
9 ~~less than 20 years~~ In addition to owner-occupied housing, the project may
10 include housing units that are rented.

11 (28) “Mixed use” means construction of both mixed income housing
12 and construction of space for any combination of retail, office, services,
13 artisan, and recreational and community facilities, provided at least 40 percent
14 of the gross floor area of the buildings involved is mixed income housing.
15 “Mixed use” does not include industrial use.

16 (29) “Affordable housing” means either of the following:

17 (A) Housing that is owned by its occupants whose gross annual
18 household income does not exceed 80 percent of the county median income, or
19 80 percent of the standard metropolitan statistical area income if the
20 municipality is located in such an area, as defined by the U.S. Department of
21 Housing and Urban Development, and the total annual cost of the housing,

1 including principal, interest, taxes, insurance, and condominium association
2 fees, is not more than 30 percent of the gross annual household income.

3 (B) Housing that is rented by the occupants whose gross annual
4 household income does not exceed 80 percent of the county median income, or
5 80 percent of the standard metropolitan statistical area income if the
6 municipality is located in such an area, as defined by the U.S. Department of
7 Housing and Urban Development, and the total annual cost of the housing,
8 including rent, utilities, and condominium association fees, is not more than 30
9 percent of the gross annual household income.

10 * * *

11 (35) “Priority housing project” means a discrete project located on a
12 single tract or multiple contiguous tracts of land that consists exclusively of:

13 (A) mixed income housing or mixed use, or any combination thereof,
14 and is located entirely within a designated downtown development district,
15 designated new town center, designated growth center, or designated village
16 center that is also a designated neighborhood development area under
17 24 V.S.A. chapter 76A; or

18 (B) mixed income housing and is located entirely within a designated
19 Vermont neighborhood or designated neighborhood development area under
20 24 V.S.A. chapter 76A.

21 * * *

1 Sec. 10. 10 V.S.A. § 6081 is amended to read:

2 § 6081. PERMITS REQUIRED; EXEMPTIONS

3 (a) No person shall sell or offer for sale any interest in any subdivision
4 located in this State, or commence construction on a subdivision or
5 development, or commence development without a permit. This section shall
6 not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all,
7 of a subdivision unless the sale, mortgage, or transfer is accomplished to
8 circumvent the purposes of this chapter.

9 * * *

10 (o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A.
11 ~~§ 2793~~ chapter 76A is removed, subsection (a) of this section shall apply to
12 any subsequent substantial change to a priority housing project that was
13 originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the
14 basis of that designation.

15 (p)(1) No permit or permit amendment is required for any change to a
16 project that is located entirely within a downtown development district
17 designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of
18 any combination of mixed use and mixed income housing, and the cumulative
19 changes within any continuous period of five years, commencing on or after
20 the effective date of this subsection, remain below the jurisdictional threshold
21 specified in subdivision 6001(3)(A)(iv)(I) of this title.

1 successors in interest have consented to the proposed changes to conditions
2 relative to the criteria for which the party retained party status.

3 (2) If the applicant is not able to obtain the consent of a party or parties
4 or their successors in interest with respect to one or more of the conditions
5 proposed to be changed, the applicant shall file a permit application pursuant to
6 this section. However, review by the District Commission shall be limited to
7 whether the changes to conditions not consented to by the party or parties or
8 their successors in interest enable positive findings under subsection 6086(a)
9 and are authorized under subsection 6086(c) of this title.

10 * * * Downtown Tax Credits * * *

11 Sec. 12. 32 V.S.A. § 5930ee is amended to read:

12 § 5930EE. LIMITATIONS

13 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
14 credits to all qualified applicants under this subchapter, provided that:

15 (1) the total amount of tax credits awarded annually, together with sales
16 tax reallocated under section 9819 of this title, does not exceed ~~\$2,200,000.00~~
17 \$2,400,000.00;

18 * * *

19 Sec. 13. EFFECTIVE DATE

20 This act shall take effect on July 1, 2017.